

**Iowa Department of Education**

**DATA COLLECTION AND REPORTING  
SYSYTEM FOR GENERAL SUPERVISION  
DUE PROCESS, PART B and C**

**REQUEST FOR PROPOSALS**

**Application Deadline  
April 28, 2008 4:30 p.m.**

Request for Proposals Cover Sheet

Request for proposal number ED-KM077001

PLEASE TYPE

DUE:  
By April 28, 2008  
by 4:30 PM

DATA COLLECTION and REPORTING SYSTEM for  
GENERAL SUPERVISION DUE PROCESS, Part B and C  
REQUEST FOR PROPOSALS

**Organization Submitting Request for Proposal:**

Organization Name \_\_\_\_\_

Organization Address \_\_\_\_\_

\_\_\_\_\_

**Authorizing Signature:**

*Administrator or CEO, your signature indicates support and responsibility for the request for proposal submitted on behalf of the organization listed above. Your signature certifies that, to the best of your knowledge, the information contained in this application is accurate and complete.*

Signature, Administrator or CEO \_\_\_\_\_ Date \_\_\_\_\_

Typed Name \_\_\_\_\_ Phone# \_\_\_\_\_ E-mail \_\_\_\_\_

**Fiscal Agent for Organization Submitting Request for Proposal:**

Fiscal Agency Name \_\_\_\_\_

Fiscal Agent Address \_\_\_\_\_

\_\_\_\_\_

**Amount requested** \_\_\_\_\_

**Mail or Deliver to:**

**Karen Martens, Consultant**

Bureau of Student, Family and Support Services

Iowa Department of Education

Grimes State Office Building/3<sup>rd</sup> Floor

400 East 14<sup>th</sup> Street

Des Moines, IA 50319-0146

# **DATA SYSTEM for IDEA COMPLIANCE MONITORING, Part B and C REQUEST FOR PROPOSALS**

## **Introduction**

### *Purposes, Goals and Outcomes:*

This request for proposals is designed to enhance Iowa's federal requirement for monitoring of IDEA 2004 Part B and C by focusing on efficient and effective use of technology to make data-based decisions to improve specialized programs and services for Iowa's children.

The Iowa Department of Education (DE) and the Area Education Agencies (AEAs) Grantees are mandated by federal regulations [34 CFR Part 300] to provide due process rights to children and families of Iowa. The Iowa Department of Education has been designated as the lead agency for implementation and oversight of the state's due process system. The contractor awarded this contract will work collaboratively with assigned Bureau staff and all affected agencies in order to ensure the implementation of an effective IDEA Part B and C due process data collection and reporting system. This data system will also inform the State of data needed to meet OSEP requirements for the submission of IDEA Section 618 Table 7 and Iowa's Annual Performance Report (APR). Additional reports will inform a variety of audiences within the state regarding areas of professional development related to due process procedures. The development of this system will require compatibility with the existing I-STAR data system.

The purpose of this project is to develop a data base software application to collect and report data to ensure due process rights are implemented and meet IDEA and State of Iowa procedural requirements.

## **Statement of Work**

The intent of the **Data Collection and Reporting System for General Supervision Due Process, Part B and C** is to use a competitive application process that will enable the Iowa Department of Education to select the most qualified applicant to develop and implement a monitoring software application for the purpose of collecting and reporting Iowa Due Process data and information. To accomplish this, a one-year contract will be issued.

Elements of the awarded contract will include:

1. Software application development, including the ability of the system to interface with existing I-STAR Data System
2. Technical assistance and training on use of the system.
3. Supports for application revision, expansion and maintenance.

### **Criteria for Contractor Qualifications**

- Contractor must have experience in developing, maintaining, and processing a statewide compliance monitoring software application in a web-based Application Service Provider environment.
- Contractor must designate a Project Manager who will be responsible for day-to-day operations and ongoing communication required in this project. The project manager will be regularly accessible and report to the assigned DE staff on a regular basis.
- Contractor must disclose any investigation, review, citation or indictment under either program by Medicare, Medicaid, or any other local, state, and/or federal agency during the past five years.
- Contractor must provide technical assistance for those DE staff utilizing this technology including if needed, on-site assistance.
- Contractor must develop software application to be compatible with DE requirements:
  - Database: SQL 2005
  - ASP.NET
  - VB.NET
- Contractor must work with DE technology staff to design the system in order to transfer to and house the system at the DE.
- Contractor must be able to comply promptly with any program modifications required by the DE. These requirements may be imposed by the state and/or the federal government.
- Contractor will provide any needed technical assistance to correct deficiencies identified during a review or audit.
- Contractor will develop and maintain working relationships with the appropriate state personnel, in order to assure compliance with the state's approved compliance monitoring plan.

The initial term of any resulting contract will begin June 1, 2008, with the data system ready for data collection of all components, reporting IDEA Sec 618 Table 7 and Iowa's APR data on December 1, 2008, with the remaining identified reports designed and generated during the second half of the contract. Specific timelines will be established during contract negotiations.

### **Additional Information for Vendors**

The DE reserves the right to reject any or all proposals, in whole or in part, to advertise for new proposals, to abandon the need for such services, and to cancel this RFP at any time prior to the execution of the written contract.

All information submitted by an Applicant will be treated by the DE as a public record unless the Applicant properly requests that the information be treated as confidential information in accordance with the public records laws of the State of Iowa at the time its proposal is submitted.

By submitting a proposal, the Applicant agrees that the DE may copy the proposal for purposes of facilitating the evaluation of the proposal or to respond to requests for public records and represents that such copying will not violate the rights of any third party.

## **Scope of Services**

The proposal should include actions and products to achieve the project's specified outcomes within the Element and activity areas listed below:

|  |
|--|
| <b>Element 1:<br/>Software Application Development</b> |
|--|

**1. Development and implementation of a software application:**

| <b>Actions</b>   |
|--|
| 1A. Use of software and programming compatible with DE system requirements:<br>Database SQL2005, ASP.NET, VB.NET |
| 1B. Design to follow DE's naming conventions.  |
| 1C. Design according to Iowa security standards of individual confidential information.                          |
| 1D. Design system to expand/modify over time.  |
| 1E. Support data input by DE staff.  |
| 1F. Design to develop web-based output reports for DE.   |
| 1G. Design to archive data and report trends over time.  |

**2. Development of a web-based system for due process data input by Iowa Department of Education staff. Data inputs include but are not limited to:**

| <b>Data Inputs</b>                  |
|-------------------------------------|
| 2A. Preappeals                      |
| 2B. Complaints                      |
| 2C. Hearings                        |
| 2D. Potential Complaints            |
| 2E. Mediations                      |
| 2F. Resolution meetings             |
| 2G. Out – of – State Placements     |
| 2H. Identified Noncompliance Issues |

**3. Generating reports for the Iowa Department of Education. Reports include but are not limited to:**

| <b>Data Outputs</b>  |
|--|
| 3A. Reports for annual IDEA Sec 618 Table 7 and Iowa's State APR, including all components of Data Inputs. |
| 3B. Reports on effectiveness of Due Process procedures, including all components of Data Inputs.           |
| 3C. District, AEA and State Findings Summary, including all components of Data Inputs.                     |
| 3D. Reports of identified noncompliance issues   |

**Element 2:  
Technical Assistance and Training**

**4. Provide technical assistance and training in the use of the Due Process Data Collection and Reporting System.**

| <b>Actions/Products</b>   |
|---|
| 4A. Collaborate with the Iowa Department of Education to provide training for end users at State Department of Education. |
| 4B. Provide on-going technical assistance and implementation support.   |

**Element 3:  
Supports for Application Revision, Expansion and Maintenance**

**5. Provide the necessary supports for the DE to maintain, modify and enhance the Due Process Data System over time.**

| <b>Actions/Products</b>  |
|--|
| 5A. Develop and implement program modifications as required by the DE. These requirements may be imposed by the state and/or the federal government. |
| 5B. Provide on-going technical assistance and implementation support for all program modification requirements.                                      |

**Performance Measurement for Project Accountability**

1. Submit timelines for project development and implementation.
2. Complete project activities within the established timelines.
3. Submit final report of project activities, timelines and deliverables.

## **Compliance Assurances**

The signature of the organization is required on the Request for proposals cover sheet. The signature denotes that the following assurances have been read and there is agreement.

### **Part A: Nondiscrimination**

The Applicant assures that in carrying out its request for proposals it will comply with federal and state laws, which prohibit discrimination on the basis of race, creed, color, sex, sexual orientation, gender identity, national origin, gender, disability, religion, age, political party affiliation, or actual or potential parental, family or marital status in its programs, activities, or employment practices. Multicultural, gender fair approaches will be used in planning and implementing request for proposals programs.

It is the policy of the Iowa Department of Education not to discriminate on the basis of race, creed, color, sex, sexual orientation, gender identity, national origin, gender, disability, religion, age, political party affiliation, or actual or potential parental, family or marital status in its programs, activities, or employment practices as required by the Iowa Code sections 216.9 and 256.10(2), Titles VI and VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000d and 2000e), the Equal Pay Act of 1973 (29 U.S.C. § 206, et seq.), Title IX (Educational Amendments, 20 U.S.C. §§ 1681 – 1688), Section 504 (Rehabilitation Act of 1973, 29 U.S.C. § 794), and the Americans with Disabilities Act (42 U.S.C. § 12101, et seq.).

If you have questions or grievances related to compliance with this policy by the Iowa Department of Education, please contact the legal counsel for the Iowa Department of Education, Grimes State Office Building, Des Moines, IA 50319- 0146, telephone number 515-281-5295, or the Director of the Office for Civil Rights, U.S. Department of Education, 111 N. Canal Street, Suite 1053, Chicago, IL 60606-7204.

### **Part B: Control of Funds**

The Applicant organization hereby assures that it assumes responsibility for the control of funds received under this request for proposals. It is acceptable to subcontract with another agency for fiscal management of the request for proposal funds.

### **Part C: Fiscal Control and Accounting Procedures**

The organization hereby assures that it will: 1) make reports when requested by the state fiscal agent; 2) maintain records and provide access to those records when requested by the state fiscal agent; 3) maintain all supporting documentation of the status and results of the initiative for up to three years following completion of request for proposals award.

### **Part D: Program Accountability**

The request for proposals program manager or fiscal agent is responsible to notify the Iowa Department of Education immediately any time a deviation occurs or necessity arises to alter any of the goals, program activities, budget or other sections as stated in the request for proposals. The Applicant agrees to meet with project staff at the Iowa Department of Education upon request.

## **Application Process Requirements**

### **Eligible Applicants and Definitions**

Applications can be made by any private for profit, nonprofit or government organization, agency, or institution with the capacity and expertise to complete the work required. The above-mentioned will act as fiscal agent and manage all subcontracts.

### **Overview of Eligible Activities for Funding**

Each application must explain how its proposal addresses the development of a software application to meet the data needs as identified in the introduction.

The funding provided by this request for proposals is for planning and implementation of the following three Elements and five (5) activities for a State data system for Data Collection and Reporting for General Supervision Due Process, Part B and C.

#### **Element 1: Software Application Development**

1. Development and implementation of a software application, compatible with Iowa's current I-STAR data system.
2. Development of a web-based system for due process data input by Iowa Department of Education staff.
3. Generate reports for the Iowa Department of Education, area education agencies (AEAs) local education agencies (LEAs) and other stakeholders identified by the Iowa DE.

#### **Element 2: Technical Assistance and Training**

4. Provide technical assistance and training in the use of the Due Process Data Collection and Reporting System.

#### **Element 3: Supports for Application Revision, Expansion and Maintenance**

5. Provide the necessary supports for the DE to maintain, modify and enhance the Due Process data system over time.

### **Application Timelines**

The dates set forth below are for informational planning purposes only. The DE reserves the right to change any of these dates:

|                   |   |
|-------------------|---|
| February 27, 2008 | Presentation to IT RFP Advisory Group                             |
| March 13, 2008    | Technology Governance Board (TGB) review                          |
| March 17, 2008    | RFP Released to Targeted Small Businesses                         |
| March 19, 2008    | RFP Released to General Public and potential applicants           |
| March 28, 2008    | Letters of Intent to Apply due                                    |
| March 28, 2008    | Questions Due to Department                                       |
| April 28, 2008    | Closing Date for Receipt of RFPs                                  |
| May 6, 2008       | Announce Successful Applicant/Vendor                              |
| May 20, 2008      | Completion of Contract Negotiations and Execution of the Contract |
| June 1, 2008      | Begin Contract  |
| December 1, 2008  | System Implementation Date  |
| June 1, 2009      | Contract Ends   |



**Intent to Apply**

Potential Applicants must send an “Intent to Apply” notice to Karen Martens by 4:30 PM on March 28, 2008. In this notice, please state the name of the business, organization, agency or institution and that it will be submitting an application for the DATA COLLECTION AND REPORTING SYSTEM FOR GENERAL SUPERVISION DUE PROCESS, PART B AND C Request for Proposals. This notice is not binding and by submitting an “Intent to Apply” a potential applicant may at a later date prior to the deadline, decide not to apply. However, submitting a letter of intent to apply is a mandatory condition to submit a proposal.

From the date of issuance of this RFP until the announcement of the successful applicant, applicants may contact only Karen Martens regarding this procurement. All questions related to the interpretation of the RFP and the procurement process must be submitted in writing exclusively to:

Karen Martens, Consultant  
Bureau of Student, Family and Support Services  
Iowa Department of Education  
Grimes State Office Building/3<sup>rd</sup> Floor  
400 East 14<sup>th</sup> Street  
Des Moines, IA 50319-0146

Or by electronic mail at: [Karen.L.Martens@iowa.gov](mailto:Karen.L.Martens@iowa.gov)

Or by facsimile at: 515-242-6019

Written responses to all questions received will be provided to all potential applicants by posting on the DE website within 7 days of deadline for questions to be submitted. Oral questions will not be accepted. If an applicant or someone acting on an applicant's behalf attempts to discuss this RFP orally or in writing with any members of the evaluation committee, or any employee or elected official of the State of Iowa, other than Karen Martens, the Applicant may be disqualified.

**How to Submit an Application**

The deadline for submission of applications is 4:30 p.m. on Monday April 28, 2008. Private for profit, nonprofit or government organizations interested in providing these services should submit one (1) original application and three (3) copies, for a total of four (4) copies by the deadline. Applications must be mailed or hand-delivered to the office of Karen Martens, Iowa Department of Education, Grimes State Office Building, Des Moines, IA 50319-0146. No facsimile or electronically transmitted applications will be accepted. Any proposal received after this deadline will be rejected and returned to the applicant.

**Reference Checks**

The Department of Education reserves the right to contact any reference to assist in the evaluation of the bid proposal, to verify information contained in the bid proposal and to discuss the vendor's qualifications and the qualifications of any subcontractor identified in the bid proposal

**Notification of Awards**

All applicants will be notified on or around May 6, 2008, regarding the status of their application being funded.

**Award**

The total amount of this award will be for a one-year contract. Unused funds at the conclusion of the request for proposals shall be returned to the Iowa Department of Education. The evaluation committee's selection will be subject to the final approval of the Department. The contract will be

awarded to the responsible applicant submitting the best proposal. The award will be based on the quality of the proposal and whether the applicant meets stated criteria.

Negotiation and execution of a contract with the successful applicant shall be completed no later than May 20, 2008. If the apparent successful applicant fails to negotiate and deliver an executed contract by that date, the Department may, in its sole discretion, cancel the award and award the contract to the next highest ranked applicant.

#### **Limiting Factors**

The applicant shall provide all documents specified in the “Performance Measurement for Project Accountability” section (p.6) of this RFP. Reports of expenditures will be, at a minimum, on a quarterly basis. Invoices prepared and submitted shall follow the budget developed in the contract.

Additionally, the Applicant agrees to meet with personnel from the Iowa Department of Education upon request. All products and processes should be developed in collaboration with designated Department personnel, and coordinated with relevant Department initiatives and become the property of the Iowa Department of Education and may not be copyrighted.

#### **Application Content**

The application may be accessed from the Iowa Department of Education web page using the following address: < >An original and three (3) additional copies must be submitted. Each copy should be stapled in the upper left-hand corner with the four (4) copies banded together to assist in sorting.

The components of eligibility listed below will be used to screen applications upon receipt. If any application or any part of an application is turned in after the deadline for any reason, it will be automatically marked ineligible. If requirements listed below are not met, the application may be considered ineligible for reading and the lead agency administrator will be notified.

- All sections of the application must be typed, except the Request for proposals Cover Sheet, which may be typed or printed.
- Pages must contain the following footer:

Iowa IDEA Due Process System

Page Number
- Signature of the organization administrator is required.
- Applications must submit all of the following sections in the order shown here:

#### **A. Cover Page (not scored)**

##### **MANDATORY**

- Include all information requested on this page. It should be the first visible sheet of paper in the application and is to be one-sided, one page in length. No other cover or page should precede it. No footer is necessary on the cover page.
- Signatures on the original application should be original ones. The other three copies of the application may be reproduced, including signatures. No signature stamps are allowed.
- Originally designed cover page, binders and notebooks are not acceptable.

## **B. System Capacity Summary**

**MANDATORY**

***Attributes: Features of the proposal that will be the focus of review and evaluation.***

- Include a description of the applicant's ability to complete responsibilities including the ability to meet timelines.
- Describe how the applicant will staff the project to meet the demands for: 1) development of the software application, 2) provision of technical assistance and training for Department of Education staff. 3) provision of necessary updates to the DE in order to maintain the software application over time.
- Describe past performance of work that is identical or similar to the scope of services including experience and references that demonstrate, to the satisfaction of the Department, the expertise and ability of the applicant to provide the services described in the RFP within the prescribed timeframe.
- The one-sided, one-page narrative must be single-spaced with no less than one-inch margins on top, bottom, and sides. Font size must be a minimum of 12 point.

## **C. Abstract**

**MANDATORY**

***Attributes:***

- The abstract contains the title, the request for proposals cycle dates, and the identity of the applicant agency/organization.
- The purpose of the application is identified in a vision statement of the project.
- The narrative summary includes an explanation of how the three (3) Elements of this proposal will be addressed.
- Expected measurable outcomes for the project as a whole as well as each of the three (3) Elements of the project must be included.
- Abstract must be no longer than one and one-half pages, single-spaced with no less than one-inch margins on top, bottom, and sides. Font size must be a minimum of 12 point.

Note: The abstract will be used to communicate this proposal to various publics.

## **D. Narrative Text**

**MANDATORY**

***Attributes:***

In narrative form, each of the items listed below must be addressed. The applicant may write as much or as little as is appropriate for each item as long as the total number of pages devoted to this section does not exceed 10 pages. The request for proposals text items are:

- A description of how the proposal is organized to address the three (3) Element areas and five (5) areas of Activities.
- Identification of measurable outcomes, with an emphasis on effect measures, for the overall project and for each project Element.

- A description of the strategies and activities that will be implemented to achieve the project's Scope of Services for each of the three (3) Element areas and five (5) Activity areas (see pages 5-6).
- Identification of timelines for planning and implementation activities.
- Total pages for the application narrative (exclusive of the cover sheet, system capacity summary, abstract, budget form, and budget narrative) must be one-sided, not exceed 10 pages, and must be numbered sequentially 1-10. Text must be double-spaced with no less than one-inch margins on top, bottom, and sides. Font size must be a minimum of 12 point.
- All charts, tables and graphs are to be included in the 10 pages allowed and can be single-spaced with no less than one-inch margins on top, bottom, and sides. Font size must be a minimum of 10 point.
- Divider sheets or tabbed sheets between sections are not acceptable.

**E. Budget Form (not scored)**  
MANDATORY

- No more than 8% of the total amount requested may be used for indirect costs.
- The budget form must be aligned with the activities described in the Budget Narrative.
- Budget form in this application must be used. It may be single-spaced with margins of one inch for top, sides, and bottom. Font size must be a minimum of 10 point.

**F. Budget Narrative**  
MANDATORY

***Attributes:***

The narrative should include the applicant's cost proposal for the work set forth in the Scope of Services and should include sufficient information regarding the applicant's ability to perform the services sought by the Department. The information provided in this narrative will be used to determine the applicant's ability to perform the work identified in the Scope of Services.

- Describe how all budget items were determined and how they relate to achieving the proposed project activities.
- Illustrate how current and future fiscal resources will support project Elements and be used for the activities outlined in the Request for Proposals.
- Provide information regarding the financial capacity of the applicant to fulfill the resulting contract.
- Provide information about how the applicant will sustain the effort beyond the duration of this funding.
- The budget narrative should be no more than three (3) page in length, single-spaced with margins no less than one inch for top, sides, and bottom. Font size must be a minimum of 12 point.

**Other Attachments**

No attachments, appendices, or letters of support will be accepted.

## **APPEAL PROCESS**

Any applicant of the Data Collection and Reporting System for General Supervision Due Process, Part B and C request for proposals funds may appeal the denial of a properly submitted competitive program request for proposals or the unilateral termination of a competitive program request for proposals to the Director of the Department of Education. Appeals must be in writing and received within ten working days of the date of notice of the decision and must be based on a contention that the process was conducted outside of statutory authority; violated state or federal law, policy or rule; did not provide adequate public notice; was altered without adequate public notice; or involved conflict of interest by staff or committee members. Refer to 281 IAC r. 7.5, the legal authority for this process.

## **Application Scoring and Reading Process**

1. Application scores are determined by multiplying the value of the rating by the assigned value of the weighting, resulting in a point total for each item. The points for each item are added to other earned points as specified in the application, for a total score. Example: 2 (value) X 10 (weighting) = 20 (points)
2. All readers participate in an intensive training session to insure greater inter-reader reliability.
3. Readers may be randomly grouped to read applications.
4. All applications are read initially by multiple readers. When there is a wide discrepancy in scores among readers, additional readers are assigned.
5. Local and regional readers or those with specific knowledge of or relationships with those making application for this request for proposals will not be assigned to read applications from their own regions or where there is evidence of a conflict of interest. Readers are screened for any possible conflict of interest in advance of application reviews.
6. Applications will be read and scored by readers from the Department. Readers will represent diverse professional fields and areas of interest reflective of the request for proposals programs.
7. The committee will consider all information provided in the proposal when making its recommendation.
8. For applications, a score of "0" on any one of the required criteria will result in the disqualification of that proposal.
9. If there is a tie for the best proposal and only one of the applicants is an Iowa business, the Iowa business shall be given preference over out of state applicants receiving the same score.

## **Evaluation of Proposal Scoring Rubric**

(This rating rubric applies to all of the scored Attributes)

### **Rating Value:**

- 0-1 There is little or no evidence to support the development and implementation of the three (3) Elements and five (5) Activities to develop and implement a state data software application for Data Collection and Reporting System for General Supervision Due Process, Part B and C. The designated attributes either have not been addressed or have been addressed only minimally.

- 2-3 The evidence is of a moderate or adequate amount and refers *generally* to strategies and activities to support the development and implementation of the three (3) Elements and five (5) Activities to develop and implement a state data software application for Data Collection and Reporting System for General Supervision Due Process, Part B and C. Most or all of the designated attributes are addressed to some extent.
- 4-5 Most or all evidence included is detailed, and thorough information exists that clearly substantiates that strategies and activities support the development and implementation of the three (3) Elements and five (5) Activities to develop and implement a state data software application for Data Collection and Reporting System for General Supervision Due Process, Part B and C. All of the designated attributes are addressed fully.

**Part E: Budget Form** (Only alignment with Action Plan is scored.)

**Data Collection and Reporting System for General Supervision Due Process, Part B and C**  
Acquisition of equipment under this contract requires prior approval from the Department of Education. The disposition of all equipment purchased under the terms of this contract will become the prerogative of the Department of Education at the conclusion of this work.

|  | <b>Element 1</b><br>(Development<br>of software<br>application) | <b>Element 2</b><br>(Technical<br>assistance<br>and<br>training) | <b>Element 3</b><br>(Maintenance,<br>revision and<br>expansion<br>of application) | <b>Total Request<br/>For Proposal<br/>Funds<br/>Requested</b> |
|--|---|--|---|---|
| <b>Personnel</b><br>(Include # of<br>FTEs) |   |  |   |   |
| <b>Fringe<br/>Benefits</b>                 |   |  |   |   |
| <b>Contractual</b>                         |   |  |   |   |
| <b>Travel &amp;<br/>Per Diem</b>           |   |  |   |   |
| <b>Supplies</b>                            |   |  |   |   |
| <b>Evaluation</b>                          |   |  |   |   |
| <b>Indirect*</b>                           |   |  |   |   |
| <b>Other</b>                               |   |  |   |   |
| <b>Total RFP<br/>funds<br/>Requested</b>   |   |  |   |   |

Amounts are rounded to the nearest dollar.

\* No more than 8% of total request for proposals request may be allocated to indirect costs.

Request for proposals #\_\_\_\_\_

## Data Collection and Reporting System for General Supervision Due Process, Part B and C Evaluation Form

**Applicant Agency/Organization:**

**Reader Number:**

Please apply the following rating to all of the scored Attributes using the formula on p. 14 **Scoring Rubric**

### Rating Value

- 0-1 There is little or no evidence to support the development and implementation of the three (3) Elements and five (5) Activities to develop and implement a state data software application for **Data Collection and Reporting System for General Supervision Due Process, Part B and C**. The designated attributes either have not been addressed or have been addressed only minimally.
- 2-3 The evidence is of a moderate or adequate amount and refers *generally* to strategies and activities to support the development and implementation of the three (3) Elements and five (5) Activities to develop and implement a state data software application for **Data Collection and Reporting System for General Supervision Due Process, Part B and C**. Most or all of the designated attributes are addressed to some extent.
- 4-5 Most or all evidence included is detailed, and thorough information exists that clearly substantiates that strategies and activities support the development and implementation of the three (3) Elements and five (5) Activities to develop and implement a state data software application for **Data Collection and Reporting System for General Supervision Due Process, Part B and C**. All of the designated attributes are addressed fully.

| Attribute  | Rating  | Weight | Total Possible Points |
|--|---|--------|-----------------------|
| 2. The System Capacity section attests to the resources and supports the Applicant organization has in place, which may be used as a foundation to ensure that the Elements and Activities described in this proposal can be carried out satisfactorily and within identified timelines.                       | <div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> </div> <div>0 1 2 3 4 5</div> | X 2    | <u>10</u>             |
| 3. The Abstract describes the request for proposals highlighting the following: the title, Applicant Agency/Organization, vision/purpose, narrative summary of major Elements and Activities, and expected measurable outcomes of the project.   | <div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> </div> <div>0 1 2 3 4 5</div> | X 1    | <u>5</u>              |
| 4. The Narrative clearly identifies the measurable outcomes for the overall project and for each project Element.  | <div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> </div> <div>0 1 2 3 4 5</div> | X 3    | <u>15</u>             |
| 5. The Narrative clearly describes the strategies and activities that will be implemented to achieve the specified outcomes and carry out the Scope of Services for development and implementation of a data system for Data Collection and Reporting System for General Supervision Due Process Part B and C. | <div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> </div> <div>0 1 2 3 4 5</div> | X 3    | <u>15</u>             |



|       |  |   |   |   |   |  |                              |  |   |   |   |   |   |   |     |           |
|-------|--|---|---|---|---|--|------------------------------|--|---|---|---|---|---|---|-----|-----------|
| 6.    | The Narrative attests to the resource capacity of the Applicant Agency to fulfill the contract.  | <table><tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr><tr><td>0</td><td>1</td><td>2</td><td>3</td><td>4</td><td>5</td></tr></table> |   |   |   |  |                              |  | 0 | 1 | 2 | 3 | 4 | 5 | X 1 | <u>5</u>  |
|       |  |   |   |   |   |  |                              |  |   |   |   |   |   |   |     |           |
| 0     | 1  | 2   | 3 | 4 | 5 |  |                              |  |   |   |   |   |   |   |     |           |
| 7.    | The Narrative clearly identifies the software application to be compatible with DE requirements and ability to interface with current I-STAR system.           | <table><tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr><tr><td>0</td><td>1</td><td>2</td><td>3</td><td>4</td><td>5</td></tr></table> |   |   |   |  |                              |  | 0 | 1 | 2 | 3 | 4 | 5 | X 2 | <u>10</u> |
|       |  |   |   |   |   |  |                              |  |   |   |   |   |   |   |     |           |
| 0     | 1  | 2   | 3 | 4 | 5 |  |                              |  |   |   |   |   |   |   |     |           |
| 8.    | The Narrative Text identifies realistic, achievable timelines for carrying out planning and implementation activities for all project elements and activities. | <table><tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr><tr><td>0</td><td>1</td><td>2</td><td>3</td><td>4</td><td>5</td></tr></table> |   |   |   |  |                              |  | 0 | 1 | 2 | 3 | 4 | 5 | X 1 | <u>5</u>  |
|       |  |   |   |   |   |  |                              |  |   |   |   |   |   |   |     |           |
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| 9.    | The Budget is aligned with the program elements, stated activities and outcomes.   | <table><tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr><tr><td>0</td><td>1</td><td>2</td><td>3</td><td>4</td><td>5</td></tr></table> |   |   |   |  |                              |  | 0 | 1 | 2 | 3 | 4 | 5 | X 1 | <u>5</u>  |
|       |  |   |   |   |   |  |                              |  |   |   |   |   |   |   |     |           |
| 0     | 1  | 2   | 3 | 4 | 5 |  |                              |  |   |   |   |   |   |   |     |           |
| 10.   | The Budget Narrative justifies expenditures to achieve the desired outcomes.   | <table><tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr><tr><td>0</td><td>1</td><td>2</td><td>3</td><td>4</td><td>5</td></tr></table> |   |   |   |  |                              |  | 0 | 1 | 2 | 3 | 4 | 5 | X2  | <u>10</u> |
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| 0     | 1  | 2   | 3 | 4 | 5 |  |                              |  |   |   |   |   |   |   |     |           |
| 11.   | The Budget Narrative attests to the financial capacity of the Applicant Agency to fulfill the contract.  | <table><tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr><tr><td>0</td><td>1</td><td>2</td><td>3</td><td>4</td><td>5</td></tr></table> |   |   |   |  |                              |  | 0 | 1 | 2 | 3 | 4 | 5 | X 1 | <u>5</u>  |
|       |  |   |   |   |   |  |                              |  |   |   |   |   |   |   |     |           |
| 0     | 1  | 2   | 3 | 4 | 5 |  |                              |  |   |   |   |   |   |   |     |           |
| TOTAL |  |   |   |   |   |  | <u>85</u><br><u>possible</u> |  |   |   |   |   |   |   |     |           |

## CONTRACTUAL TERMS

### APPLICANTS ARE NOT REQUIRED TO RESPOND TO THESE SECTIONS.

The following contractual terms and conditions apply to Request for Proposal *Data Collection and Reporting System for General Supervision Due Process Part B and C*, as specified in the RFP. *Note: Prospective Vendors may propose other or different contractual terms and conditions; however, the State reserves the right to reject the Prospective Vendor's terms and conditions in whole or in part. If a prospective Vendor takes exception to any of the terms or conditions and fails to include other or different terms and conditions in its proposal it may be grounds for the State, in its sole discretion, to declare the Vendor's proposal non-responsive and to reject the proposal from evaluation or from award. The terms and conditions as stated herein relate only to the above referenced RFP, and do not extend to other or future contracts a prospective Vendor may currently have or may have in the future with the State, nor do the terms and conditions as stated herein relate to any other State procurement which may be in process.*

#### **A. Contractual Terms Generally**

The contract that the Iowa Department of Education (DE) expects to award as a result of this Request for Proposal will be based upon the bid proposal submitted by the successful vendor and this solicitation. The contract between the DE and the successful vendor shall be a combination of the specifications, terms and conditions of the Request for Proposal, including the terms contained herein, the offer of the vendor contained in the technical and cost proposals, written clarifications or changes made in accordance with the provisions herein, and any other terms deemed necessary by the DE.

The contract terms contained herein are not intended to be a complete listing of all contract terms but are provided only to enable vendors to better evaluate the costs associative with the RFP and the potential resulting contract. Vendors should plan on such terms being included in any contract awarded as a result of this RFP. All costs associated with complying with these requirements should be included in the revenue proposal or any pricing quoted by the vendor.

**By submitting a proposal, each vendor acknowledges its acceptance of these specifications, terms and conditions without change except as otherwise expressly stated in its proposal. If a vendor takes exception to a provision, it must state the reason for the exception and set forth in its proposal the specific contract language it proposes to include in place of the provision. Exceptions that materially change these terms or the requirements of the RFP may be deemed non-responsive by the DE, in its sole discretion, resulting in possible disqualification of the proposal.** The Agency reserves the right to either award a contract without further negotiation with the successful vendor or to negotiate contract terms with the selected vendor if the best interests of the DE would be served.

#### **B. Terms and Conditions**

**B1. Term.** The term of this Contract shall be June 1, 2008, through May 31, 2009, unless terminated earlier in accordance with the Termination section of the Contract.

**B2. Nonexclusive Rights.** The Contract will not be exclusive. The DE will reserve the right to select other Applicants to provide services similar or identical to the Scope of Services described in this Contract during the term of this Contract.

**B3. Property Rights.** Any products or processes developed under this project are the property of the Iowa Department of Education.

### **C. Compensation**

**C1. Compensation.** The DE will reimburse contractor expenses on a monthly basis. The contractor may be eligible for advance funding under special circumstances.

**C2. Billings.** The Contractor shall submit, on a **monthly basis**, an invoice for services rendered in accordance with this Contract. The invoice shall comply with all applicable rules concerning payment of such claims. The DE shall pay all approved invoices in arrears and in conformance with Iowa Code section 421.40 and 701 Iowa Administrative Code 201.1(2). The Agency may pay in less than sixty (60) days, as provided in Iowa Code section 421.40. However, an election to pay in less than sixty (60) days shall not act as an implied waiver of Iowa Code section 421.40.

Unless otherwise agreed in writing by the parties, the Contractor shall not be entitled to receive any other payment or compensation from the DE for any goods or services provided by or on behalf of the Contractor under this Contract. The Contractor shall be solely responsible for paying all costs, expenses and charges it incurs in connection with its performance under this Contract.

**C3. Delay of Payment Due to Contractor's Failure.** If the DE in good faith determines that the Contractor has failed to perform or deliver any service or product as required by this Contract, the Contractor shall not be entitled to any compensation under this Contract until such service or product is performed or delivered. In this event, the DE may withhold that portion of the Contractor's compensation, which represents payment for service or product that was not performed or delivered.

**C4. Set-Off Against Sums Owed by the Contractor.** In the event that the Contractor owes the State any sum under the terms of this Contract, any other Contract, pursuant to any judgment, or pursuant to any lack the State may set off the sum owed to the State against any sum owed by the State to the Contractor in the State's sole discretion, unless otherwise required by law. The Contractor agrees that this provision constitutes proper and timely notice under the law of setoff.

### **D. Termination**

**D1. Immediate Termination by the DE.** The DE may terminate this Contract for any of the following reasons effective immediately without advance notice:

**D1.1.** In the event the Contractor is required to be certified or licensed as a condition precedent to providing services, the revocation or loss of such license or certification will result in immediate termination of the Contract effective as of the date on which the license or certification is no longer in effect;

**D1.2.** The DE determines that the actions, or failure to act, of the Contractor, its agents, employees or subcontractors have caused, or reasonably could cause, a client's life, health or safety to be jeopardized;

**D1.3.** The Contractor fails to comply with confidentiality laws or provisions;

**D1.4.** The Contractor furnished any statement, representation or certification in connection with this Contract or the RFP, which is materially false, deceptive, incorrect or incomplete.

**D2. Termination for Cause.** The occurrence of or any one or more of the following events shall constitute cause for the Agency to declare the Contractor in default of its obligations under this Contract.

**D2.1.** The Contractor fails to perform, to the DE's satisfaction, any material requirement of this Contract or is in violation of a material provision of this Contract, including, but without limitation, the express warranties made by the Contractor;

**D2.2.** The DE determines that satisfactory performance of this Contract is substantially endangered or that a default is likely to occur;

**D2.3.** The Contractor fails to make substantial and timely progress toward performance of the Contract;

**D2.4.** The Contractor becomes subject to any bankruptcy or insolvency proceeding under federal or state law to the extent allowed by applicable federal or state law including bankruptcy laws; the Contractor terminates or suspends its business; or the DE reasonably believes that the Contractor has become insolvent or unable to pay its obligations as they accrue consistent with applicable federal or state law;

**D2.5.** The Contractor has failed to comply with applicable federal, state and local laws, rules, ordinances, regulations and orders when performing within the scope of this Contract; or

**D2.6.** The Contractor has engaged in conduct that has or may expose the Agency to liability, as determined in the DE's sole discretion.

**D2.7.** The Contractor has infringed any patent, trademark, copyright, trade dress or any other intellectual property right.

**D3. Notice of Default.** If there is a default event caused by the Contractor, the DE shall provide written notice to the Contractor requesting that the breach or noncompliance be remedied within the period of time specified in the DE's written notice to the Contractor. If the breach or noncompliance is not remedied by the date of the written notice, the DE may either:

**D3.1.** Immediately terminate the Contract without additional written notice; or,

**D3.2.** Enforce the terms and conditions of the Contract and seek any legal or equitable remedies.

**D4. Termination Upon Notice.** Following 30 days' written notice, the DE may terminate this Contract in whole or in part without the payment of any penalty or incurring any further obligation to the Contractor. Following termination upon notice, the Contractor shall be entitled to compensation, upon submission of invoices and proper proof of claim, for services provided under this Contract to the DE up to and including the date of termination.

**D5. Termination Due to Lack of Funds or Change in Law.** The DE shall have the right to terminate this Contract without penalty by giving sixty (60) days' written notice to the Contractor as a result of any of the following:

**D5.1.** Adequate funds are not appropriated or granted to allow the DE to operate as required and to fulfill its obligations under this Contract;

**D5.2.** Funds are de-appropriated or not allocated or if funds needed by the DE, at the Agency's sole discretion, are insufficient for any reason;

**D5.3.** The DE's authorization to operate is withdrawn or there is a material alteration in the programs administered by the DE;

**D5.4.** The DE's duties are substantially modified.

**D6. Remedies of the Contractor in Event of Termination by the Agency.** In the event of termination of this Contract for any reason by the DE, the DE shall pay only those amounts, if any, due and owing to the Contractor for services actually rendered up to and including the date of termination of the Contract and for which the DE is obligated to pay pursuant to this Contract. Payment will be made only upon submission of invoices and proper proof of the Contractor's claim. This provision in no way limits the remedies available to the Agency under this Contract in the event of termination. However, the DE shall not be liable for any of the following costs:

**D6.1.** The payment of unemployment compensation to the Contractor's employees;

**D6.2.** The payment of workers' compensation claims, which occur during the Contract or extend beyond the date on which the Contract terminates;

**D6.3.** Any costs incurred by the Contractor in its performance of the Contract, including, but not limited to, startup costs, overhead or other costs associated with the performance of the Contract;

**D6.4.** Any taxes that may be owed by the Contractor in connection with the performance of this Contract, including, but not limited to, sales taxes, excise taxes, use taxes, income taxes or property taxes.

**D7. The Contractor's Termination Duties.** The Contractor upon receipt of notice of termination or upon request of the DE, shall:

**D7.1.** Cease work under this Contract and take all necessary or appropriate steps to limit disbursements and minimize costs, and furnish a report within thirty (30) days of the date of notice of termination, describing the status of all work under the Contract, including, without limitation, results accomplished, conclusions resulting there from, any other matters the DE may require.

**D7.2.** Immediately cease using and return to the DE any personal property or materials, whether tangible or intangible, provided by the DE to the Contractor.

**D7.3.** Comply with the DE's instructions for the timely transfer of any active files and work product produced by the Contractor under this Contract.

**D7.4.** Cooperate in good faith with the DE, its employees, agents and contractors during the transition period between the notification of termination and the substitution of any replacement contractor.

**D7.5.** Immediately return to the DE any payments made by the DE for services that were not rendered by the Contractor.

## **E. Indemnification**

**E1. By the Contractor.** The Contractor agrees to indemnify and hold harmless the State of Iowa and the DE, its officers, employees and agents appointed and elected and volunteers from any and all costs, expenses, losses, claims, damages, liabilities, settlements and judgments, including reasonable value of the time spent by the Attorney General's Office, and the costs and expenses and reasonable attorneys' fees of other counsel required to defend the State of Iowa or the Agency, related to or raising from:

**E1.1.** Any breach of this contract;

**E1.2.** Any negligent, intentional or wrongful act or omission of the Contractor or any agent or subcontractor utilized or employed by the Contractor;

**E1.3.** The Contractor's performance or attempted performance of this Contract, including any agent or subcontractor utilized or employed by the Contractor;

**E1.4.** Any failure by the Contractor to comply with the compliance with the Law provision of this Contract;

**E1.5.** Any failure by the Contractor to make all reports, payments and withholdings required by federal and state law with respect to social security, employee income and other taxes, fees or costs required by the Contractor to conduct business in the State of Iowa;

**E1.6.** Any infringement of any copyright, trademark, patent, trade dress, or other intellectual property right; or

**E1.7.** Any failure by the Contractor to adhere to the confidentiality provisions of this Contract.

## **E2. Indemnification by the DE**

**E2.1.** The DE shall, only to the extent consistent with Article VII, Section 1 of the Iowa Constitution and Iowa Code Chapter 669, indemnify and hold harmless the Contractor from and against any and all costs, expenses, losses, claims, damages, liabilities, settlements and judgments

arising directly out of the negligence or wrongful acts or omissions of any employee of the DE while acting within the scope of the employee's office of employment in connection with the performance of this Contract.

**E2.2.** At the option of the DE, the Contractor shall be represented by the Attorney General of the State or special counsel retained by the State or the Attorney General of the State with respect to any litigation brought by or against the Agency or such persons with respect to any and all costs, expenses, losses, claims, damages, liabilities, settlements and judgments to which such persons may be subject and to which they are entitled to be indemnified hereunder.

**E2.3.** If the DE makes any indemnity payments pursuant to this Section and the person to or on behalf of whom such payments are made thereafter collects any of such amounts from others, that person shall promptly repay such amounts to the DE, without interest.

**E3. Survives Termination.** Indemnification obligation of the parties shall survive termination of this Contract.

## **F. Insurance**

**F1. Insurance Requirements.** The Contractor, and any subcontractor, shall maintain in full force and effect, with insurance companies licensed by the State of Iowa, at the Contractor's expense, insurance covering its work during the entire term of this Contract and any extensions or renewals. The Contractor's insurance shall, among other things, be occurrence based and shall insure against any loss or damage resulting from or related to the Contractor's performance of this Contract regardless of the date the claim is filed or expiration of the policy. The State of Iowa and the DE shall be named as additional insured or loss payees, or the Contractor shall obtain an endorsement to the same effect, as applicable.

**F2. Types and Amounts of Insurance Required.** Unless otherwise requested by the DE in writing, the Contractor shall cause to be issued the insurance coverage set forth below:

| TYPE OF INSURANCE   | LIMIT                                  | AMOUNT      |
|---|--|-------------|
| General Liability<br>(including contractual liability) written on an occurrence basis | General Aggregate                      | \$2 Million |
|   | Product/Completed Operations Aggregate | \$1 Million |
|   | Personal Injury                        | \$1 Million |
|   | Each Occurrence                        | \$1 Million |
| Automobile Liability<br>(including any auto, hired autos, and non-owned autos)        | Combined Single Limit                  | \$1 Million |
| Excess Liability,<br>Umbrella Form  | Each Occurrence                        | \$1 Million |
|   | Aggregate                              | \$1 Million |

| TYPE OF INSURANCE                           | LIMIT                   | AMOUNT                  |
|---|-------------------------|-------------------------|
| Workers Compensation and Employer Liability | As required by Iowa law | As required by Iowa law |
| Property Damage                             | Each Occurrence         | \$1 Million             |
|   | Aggregate               | \$1 Million             |

**F3. Certificates of Coverage.** All insurance policies required by this Contract shall remain in full force and effect during the entire term of this Contract and any extensions or renewals thereof and shall not be canceled or amended except with the advance written approval of the DE. The Contractor shall submit certificates of insurance, which indicate coverage and notice provisions as required by this Contract, to the DE upon execution of this Contract. The certificates shall be subject to approval by the DE. The insurer shall state in the certificate that no cancellation of the insurance will be made without at least thirty (30) days' prior written notice to the DE. Approval of the insurance certificates by the DE shall not relieve the Contractor of any obligation under this Contract.

## **G. Project Management and Reporting**

**G1. Project Manager.** At the time of execution of this Contract, each party shall designate, in writing, a Project Manager to serve until the expiration of this Contract or the designation of a substitute Project Manager. During the term of this Contract, each Project Manager shall be available to meet monthly, unless otherwise mutually agreed, to review and plan the services being provided under this Contract.

**G2. Review Meetings.** During the review meetings the Project Managers shall discuss progress made by the Contractor in the performance of this Contract. Each party shall provide a status report, as desired by a Project Manager, listing any problem or concern encountered since the last meeting. Records of such reports and other communications issued in writing during the course of Contract performance shall be maintained by each party.

## **H. Warranties**

**H1. Construction of Warranties Expressed in this Contract with Warranties Implied by Law.** All warranties made by the Contractor in all provisions of this Contract and the Proposal by the Contractor, whether or not this Contract specifically denominates the Contractor's promise as a warranty or whether the warranty is created only by the Contractor's affirmation or promise, or is created by a description of the materials and services to be provided, or by provision of samples to the DE, shall not be construed as limiting or negating any warranty provided by law, including without limitation, warranties which arise through course of dealing or usage of trade. The warranties expressed in this Contract are intended to modify the warranties implied by law only to the extent that they expand the warranties applicable to the goods and services provided by the Contractor. The provisions of this Section apply during the term of this Contract and any extensions or renewals thereof.

**H2. Concepts, Materials, and Works Produced.** Contractor represents and warrants that all the concepts, materials and Works produced, or provided to the DE pursuant to the terms of this

Contract shall be wholly original with the Contractor or that the Contractor has secured all applicable interests, rights, licenses, permits or other intellectual property rights in such concepts, materials and Works. The Contractor represents and warrants that the concepts, materials and Works and the DE's use of same and the exercise by the DE of the rights granted by this Contract shall not infringe upon any other work, other than material provided by the Contract to the Contractor to be used as a basis for such materials, or violate the rights of publicity or privacy of, or constitute a libel or slander against, any person, firm or corporation and that the concepts, materials and works will not infringe upon the copyright, trademark, trade name, literary, dramatic, statutory, common law or any other rights of any person, firm or corporation or other entity. The Contractor represents and warrants that it is the owner of or otherwise has the right to use and distribute the software, the materials owned by the Contractor and any other materials, Works and methodologies used in connection with providing the services contemplated by this Contract.

**H3. Professional Practices.** The Contractor represents and warrants that all of the services to be performed hereunder will be rendered using sound, professional practices and in a competent and professional manner by knowledgeable, trained and qualified personnel.

**H4. Conformity with Contractual Requirements.** The Contractor represents and warrants that the Works will appear and operate in conformance with the terms and conditions of this Contract.

**H5. Authority to Enter into Contract.** The Contractor represents and warrants that it has full authority to enter into this Contract and that it has not granted and will not grant any right or interest to any person or entity that might derogate, encumber or interfere with the rights granted to the DE.

**H6. Obligations Owed to Third Parties.** The Contractor represents and warrants that all obligations owed to third parties with respect to the activities contemplated to be undertaken by the Contractor pursuant to this Contract are or will be fully satisfied by the Contractor so that the DE will not have any obligations with respect thereto.

**H7. Title to Property.** The Contractor represents and warrants that title to any property assigned, conveyed or licensed to the DE is good and that transfer of title or license to the DE is rightful and that all property shall be delivered free of any security interest or other lien or encumbrance.

**H8. Industry Standards.** The Contractor represents and expressly warrants that all aspects of the goods and services provided or used by it shall conform to the standards in the Iowa Department of Education in the performance of this Contract.

**H9. Technology Updates.** The Contractor represents warrants that it shall continually use and integrate the most current and up-to-date technology commercially available.

## **I. Contract Administration**

**I1. Independent Contractor.** The status of the Contractor shall be that of an independent contractor. The Contractor, its employees, agents and any subcontractors performing under this Contract are not employees or agents of the State of Iowa or any agency, division or department of the state. Neither the Contractor nor its employees shall be considered employees of the DE or the State of Iowa for federal or state tax purposes. The DE will not withhold taxes on behalf of the Contractor (unless required by law).



**12. Incorporation of Documents.** The RFP, and amendments and written responses to bidders' questions (collectively RFP) and the Contractor's Proposal submitted in response to the RFP, form the Contract between the Contractor and the DE and are incorporated herein by reference. The parties are obligated to perform all services described in the RFP and Proposal unless the Contract specifically directs otherwise.

**13. Order of Priority.** In the event of a conflict between the Contract, the RFP and the Proposal, the conflict shall be resolved according to the following priority, ranked in descending order: (1) the Contract; (2) the RFP; (3) Proposal.

**14. Compliance with the Law.** The Contractor, its employees, agents, and subcontractors shall comply with all applicable federal, state, and local laws, rules, ordinances, regulations and orders when performing the services under this Contract, including without limitation, all laws applicable to the prevention of discrimination in employment and the use of targeted small businesses as subcontractors or suppliers. The Contractor, its employees, agents and subcontractors shall also comply with all federal, state and local laws regarding business permits and licenses that may be required to carry out the work performed under this Contract.

**15. Amendments.** This Contract may be amended in writing from time to time by mutual consent of the parties. All amendments to this Contract must be in writing and fully executed by the parties.

**16. Third Party Beneficiaries.** There are no third party beneficiaries to this Contract. This Contract is intended only to benefit the State, the DE and the Contractor.

**17. Choice of Law and Forum.** The laws of the State of Iowa shall govern and determine all matters arising out of or in connection with this Contract without regard to the choice of law provisions of Iowa law. In the event any proceeding of a quasi-judicial or judicial nature is commenced in connection with this Contract, the exclusive jurisdiction for the proceeding shall be brought in Polk County District Court for the State of Iowa, Des Moines, Iowa. This provision shall not be construed as waiving any immunity to suit or liability including without limitation sovereign immunity in State or Federal court, which may be available to the DE or the State of Iowa.

**18. Assignment and Delegation.** This Contract may not be assigned, transferred or conveyed in whole or in part without the prior written consent of the other party. For the purpose of construing this clause, a transfer of a controlling interest in the Contractor shall be considered an assignment.

**19. Use of Third Parties.** The DE acknowledges that the Contractor may contract with third parties for the performance of any of the Contractor's obligations under this Contract. All subcontracts shall be subject to prior approval by the DE. The Contractor may enter into these contracts to complete the project provided that the Contractor remains responsible for all services performed under this Contract. All restrictions, obligations and responsibilities of the Contractor under this Contract shall also apply to the subcontractors. The DE shall have the right to request the removal of a subcontractor from the Contract for good cause.

**110. Integration.** This Contract represents the entire Contract between the parties. The parties shall not rely on any representation that may have been made which is not included in this Contract.

**I11. Headings or Captions.** The paragraph headings or captions used in this Contract are for identification purposes only and do not limit or construe the contents of the paragraphs.

**I12. Not a Joint Venture.** Nothing in this Contract shall be construed as creating or constituting the relationship of a partnership, joint venture, (or other association of any kind or agent and principal relationship) between the parties hereto. Each party shall be deemed to be an independent contractor contracting for services and acting toward the mutual benefits expected to be derived here from. No party, unless otherwise specifically provided for herein, has the authority to enter into any contract or create an obligation or liability on behalf of, in the name of, or binding upon another party to this Contract.

**I13. Joint and Several Liability.** If the Contractor is a joint entity, consisting of more than one individual, partnership, corporation or other business organization, all such entities shall be jointly and severally liable for carrying out the activities and obligations of this Contract, and for any default of activities and obligations.

**I14. Supersedes Former Contracts or Agreements.** This Contract supersedes all prior Contracts or Agreements between the DE and the Contractor for the services provided in connection with this Contract.

**I15. Waiver.** Except as specifically provided for in a waiver signed by duly authorized representatives of the DE and the Contractor, failure by either party at any time to require performance by the other party or to claim a breach of any provision of the Contract shall not be construed as affecting any subsequent right to require performance or to claim a breach.

**I16. Notice**

**I16.1.** Any and all notices, designations, consents, offers, acceptances or any other communication provided for herein shall be given in writing by registered or certified mail, return receipt requested, by receipted hand delivery, by Federal Express, courier or other similar and reliable carrier which shall be addressed to each party as set forth as follows:

If to the DE:

Karen Martens, Consultant  
Bureau of Children, Family and Community Services  
Iowa Department of Education  
Grimes State Office Building  
Des Moines, IA 50319-0146

If to the Contractor **[name and address]**:

**I16.2.** Each such notice shall be deemed to have been provided:

**I16.2.1.** At the time it is actually received; or,

**I16.2.2.** Within one day in the case of overnight hand delivery, courier or services such as Federal Express with guaranteed next day delivery; or,

**I16.2.3.** Within five (5) days after it is deposited the U.S. Mail in the case of registered U.S. Mail.

**I16.3.** From time to time, the parties may change the name and address of a party designated to receive notice. Such change of the designated person shall be in writing to the other party and as provided herein.

**I17. Cumulative Rights.** The various rights, powers, options, elections and remedies of any party provided in this Contract, shall be construed as cumulative and not one of them is exclusive of the others or exclusive of any rights, remedies or priorities allowed either party by law, and shall in no way affect or impair the right of any party to pursue any other equitable or legal remedy to which any party may be entitled as long as any default remains in any way unremedied, unsatisfied or undischarged.

**I18. Severability.** If any provision of this Contract is determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect the validity or enforceability of any other part or provision of this Contract.

**I19. Time is of the Essence.** Time is of the essence with respect to the performance of the terms of this Contract.

**I20. Authorization.** Each party to this Contract represents and warrants to the other parties that:

**I20.1** It has the right, power and authority to enter into and perform its obligations under this Contract.

**I20.2** It has taken all requisite action (corporate, statutory or otherwise) to approve execution, delivery and performance of this Contract, and this Contract constitutes a legal, valid and binding obligation upon itself in accordance with its terms.

**I21. Successors in Interest.** All the terms, provisions, and conditions of the Contract shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns and legal representatives.

**I22. Record Retention and Access.** The Contractor shall maintain books, records and documents which sufficiently and properly document and calculate all charges billed to the DE throughout the term of this Contract for a period of at least **five (5)]** years following the date of final payment or completion of any required audit, whichever is later. Records to be maintained include both financial records and service records. The Contractor shall permit the Auditor of the State of Iowa or any authorized representative of the State and where federal funds are involved, the Comptroller General of the United States or any other authorized representative of the United States government, to access and examine, audit, excerpt and transcribe any directly pertinent books, documents, papers, electronic or optically stored and created records or other records of the Contractor relating to orders, invoices or payments or any other documentation or materials pertaining to this Contract, wherever such records may be located. The Contractor shall not impose a charge for audit or examination of the Contractor's books and records.

**I23. Solicitation.** The Contractor warrants that no person or selling agency has been employed or retained to solicit and secure this Contract upon an agreement or understanding for commission, percentage, brokerage or contingency excepting bona fide employees or selling agents maintained for the purpose of securing business.

**I24. Obligations Beyond Contract Term.** This Contract shall remain in full force and effect to the end of the specified term or until terminated or canceled pursuant to this Contract. All obligations of the DE and the Contractor incurred or existing under this Contract as of the date of expiration, termination or cancellation will survive the termination, expiration or conclusion of this Contract.

**I25. Counterparts.** The parties agree that this Contract has been or may be executed in several counterparts, each of whom shall be deemed an original and all such counterparts shall together constitute one and the same instrument.

**126. Additional Provisions.** The parties agree that if an Addendum, Rider or Exhibit is attached hereto by the parties, and referred to herein, then the same shall be deemed incorporated herein by reference.

**127. Further Assurances and Corrective Instruments.** The parties agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the expressed intention of this Contract.

**128. Delay or Impossibility of Performance.** The Contractor shall be in default under this Contract if performance is delayed or made impossible by an act of God, flood, fire or similar events. In each such case, the delay or impossibility must be beyond the control and without the fault or negligence of the Contractor. If delay results from a subcontractor's conduct, negligence or failure to perform, the Contractor shall not be excused from compliance with the terms and obligations of this Contract.

**129. Suspension and Debarment.** The Contractor certifies pursuant to 31 CFR Part 19 that neither it nor its principles are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this Contract by any federal department or agency. The Contractor shall execute the certification regarding debarment attached as Exhibit A.

**130. Lobbying Restrictions.** The Contractor shall comply with all certification and disclosure requirements prescribed by 31 U.S.C. Section 1352 and any implementing regulations and shall be responsible for ensuring that any subcontractor fully complies with all certification and disclosure requirements. The Contractor shall execute the certification regarding debarment attached as Exhibit B.

**131. Tobacco Smoke Prohibited**

**131.1.** Public Law 103-227, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by federal programs either directly or through state or local governments, by federal grant, contract, loan or loan guarantee. Federal programs include grants, cooperative agreements, loans or loan guarantees and contracts. The law also applies to children's services that are provided in indoor facilities that are constructed, operated or maintained with such federal funds. The law does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable federal funds is Medicare or Medicaid; or facilities (other than clinics) where WIC coupons are redeemed. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 for each violation and/or the imposition of an administrative compliance order on the responsible party.

**131.2.** The Contractor certifies that it and its subcontractors will comply with the requirements of the Pro-Children Act of 1994 and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Act. The Contractor shall execute the Certification of Compliance with the Pro-Children Act of 1994 attached as Exhibit C and provide the original certification when it executes this Contract.

**132. Certified Audits.** Local governments and non-profit sub recipient entities that expend \$300,000 or more in a year in federal awards (from all sources) shall have a single audit conducted for that year in accordance with the provisions of OMB Circular A-133 "Audit of States, Local

Governments, and Non-Profit Organizations.” A copy of the final audit report shall be submitted to the DE if either the schedule of findings and questioned costs or the summary schedule of prior audit findings includes any audit findings related to federal awards provided by the DE. If an audit report is not required to be submitted per the criteria above, the sub recipient must provide written notification to the DE that the audit was conducted in accordance with Government Auditing Standards and that neither the schedule of findings and questioned costs nor the summary schedule of prior audit findings includes any audit findings related to federal awards provided by the DE. See A-133 Section 21 for a discussion of sub recipient versus vendor relationships.

**I33. Drug Free Work Place.** The Contractor shall provide a drug free workplace in accordance with the Drug Free Workplace Act of 1988 and all applicable regulations. The Contractor shall execute the certification regarding a drug free workplace and provide the original certificate to the DE when it executes this Contract. Contractor agrees to abide by the terms of the certification. The certification is a material representation of fact upon which the DE relied when making or entering into this Contract and any extension or renewal thereof.

## **Exhibit A**

### **CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION--LOWER TIER COVERED TRANSACTIONS**

By signing and submitting this Proposal, the bidder is providing the certification set out below:

1. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the bidder knowingly rendered an erroneous certification, in addition to other remedies available to the federal government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
2. The bidder shall provide immediate written notice to the person to whom this Proposal is submitted if at any time the bidder learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
3. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principle, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this Proposal is submitted for assistance in obtaining a copy of those regulations.
4. The bidder agrees by submitting this Proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
5. The bidder further agrees by submitting this Proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
6. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. A participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.
7. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
8. Except for transactions authorized under paragraph 4 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or

voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

**CERTIFICATION REGARDING DEBARMENT,  
SUSPENSION, INELIGIBILITY AN VOLUNTARY  
EXCLUSION--LOWER TIER COVERED TRANSACTIONS**

(1) The bidder certifies, by submission of this Proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

(2) Where the bidder is unable to certify to any of the statements in this certification, such bidder shall attach an explanation to this Proposal.

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(Signature)

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(Title)

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(Company Name)

## **Exhibit B**

### **Certification Regarding Lobbying**

The undersigned certifies, to the best of his or her knowledge and belief, that:

- A. No federal appropriated funds have been paid or will be paid on behalf of the Sub-Grantee to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of the Congress, an officer or employee of the Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any federal contract, grant loan or cooperative agreement.
- B. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of the Congress, or an employee of a Member of Congress in connection with this Contract, grant, loan, or cooperative agreement, the applicant shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- C. The Contractor shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub grants, and contracts under grants, loans and cooperative agreements) and that all sub recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S.C.A. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Organization: \_\_\_\_\_

Date: \_\_\_\_\_



## **Exhibit C**

### **CERTIFICATION OF COMPLIANCE WITH PRO-CHILDREN ACT OF 1994**

The Contractor must comply with Public Law 103-227, Part C Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994 (Act). This Act requires that smoking not be permitted in any portion of any indoor facility owned or leased on contracted by an entity and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18, if the services are funded by federal programs either directly or through State or local governments. Federal programs include grants, cooperative agreements, loans or loan guarantees, and contracts. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such federal funds. The law does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable federal funds is Medicare or Medicaid; or facilities (other than clinics) where WIC coupons are redeemed.

The Contractor further agrees that the above language will be included in any sub awards that contain provisions for children's services and that all sub grantees shall certify compliance accordingly. Failure to comply with the provisions of this law may result in the imposition of a civil monetary penalty of up to \$1000 per day.

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Organization: \_\_\_\_\_

Date: \_\_\_\_\_